

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**IN RE METHYL TERTIARY BUTYL ETHER
PRODUCTS LIABILITY LITIGATION**

This document relates to:

City of New York v. Amerada Hess Corporation, et al.,
No. 04 Civ. 3417 (SAS)

Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88

**EXXON MOBIL DEFENDANTS' NOTICE OF MOTION FOR A NEW TRIAL
BASED ON ERRORS OF LAW**

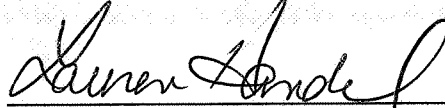
Pursuant to Rule 59 of the Federal Rules of Civil Procedure, and for the reasons stated in the accompanying memorandum, Defendants Exxon Mobil Corporation, ExxonMobil Chemical Company, Inc., Exxon Mobil Oil Corporation, and Mobil Corporation (collectively "Defendants" or "ExxonMobil") move for a new trial due to numerous errors of law, which – individually and collectively – had a material affect on the jury's verdict against ExxonMobil. In particular, a new trial is warranted on the grounds that the Court erred in:

1. Not declaring a mistrial due to serious juror misconduct;
2. Wrongly instructing the jury on Plaintiffs' injury and burden of proof;
3. Wrongly instructing the jury on Plaintiffs' trespass claim;
4. Allowing evidence in support of, and instructing the jury on, the "commingled product" theory;
5. Limiting the testimony of Defendants' expert, David Hand;
6. Allowing evidence that ExxonMobil allegedly failed to warn the government or the public about MTBE;
7. Striking portions of the testimony of Defendants' expert Sandra Mohr;

8. Allowing the rebuttal expert testimony of Plaintiffs' undisclosed expert, Kenneth Rudo; and
9. Permitting Plaintiffs to change their theory of negligence in the middle of trial.

DATED: April 21, 2010

Respectfully submitted,



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